

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.

COUNSELLORS AT LAW

CHARLES C. CARELLA
BRENDAN T. BYRNE
PETER G. STEWART
ELLIOT M. OLSTEIN
JAN ALAN BRODY
JOHN M. AGNELLO
CHARLES M. CARELLA
JAMES E. CECCHI

JAMES T. BYERS
DONALD F. MICELI
A. RICHARD ROSS
CARL R. WOODWARD, III
MELISSA E. FLAX
DAVID G. GILFILLAN
G. GLENNON TROUBLEFIELD
BRIAN H. FENLON
LINDSEY H. TAYLOR
CAROLINE F. BARTLETT

**5 BECKER FARM ROAD
ROSELAND, N.J. 07068-1739
PHONE (973) 994-1700
FAX (973) 994-1744
www.carellabyrne.com**

RICHARD K. MATANLE, II
FRANCIS C. HAND
AVRAM S. EULE
RAYMOND W. FISHER
OF COUNSEL

RAYMOND J. LILLIE
WILLIAM SQUIRE
ALAN J. GRANT*
STEPHEN R. DANEK
DONALD A. ECKLUND
MEGAN A. NATALE
AMANDA J. BARISICH
ZACHARY S. BOWER+
MICHAEL CROSS
*MEMBER NY BAR ONLY
+MEMBER FL BAR ONLY

JAMES D. CECCHI (1933-1995)
JOHN G. GILFILLAN III (1936-2008)

August 7, 2013

VIA ECF

Honorable Freda L. Wolfson
United States District Court Judge
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *In re: Johnson & Johnson Derivative Litigation*
Civil Action No. 10-2033 (FLW), 11-4993(FLW), 11-2511 (FLW)

Dear Judge Wolfson:

We are Court-appointed co-Lead Counsel for the Demand-Futile Plaintiffs in the above-referenced action. On behalf of all Plaintiffs, we respectfully submit this letter in response to the Notice of Decision filed by Objector Mark G. Petri ("Petri") yesterday. ECF No. 249.

Petri incorrectly asserts that the *Citigroup* decision supports a reduction of Plaintiffs' counsel's lodestar, contrary to the recommendations of the Special Master in the Report and Recommendation. *See* ECF No. 249 at 1-2, citing *Citigroup*. To the contrary, the *Citigroup* court reduced the lodestar of an *unsuccessful* lead counsel movant. Notably, the Court specifically decided to award attorneys' fees for the Court-appointed lead counsel's successful efforts in seeking appointment. In fact, the *Citigroup* court's decision on this score squarely refutes Mr. Frank's position before Your Honor:

The Court agrees that the interim appointment process is necessary to the progress of the action, and that *the class benefits from the selection of capable counsel. The Court selected Kirby, the action proceeded, and the class thus benefitted from Kirby's efforts to secure appointment.*

Citigroup at 30 (emphasis added). The same is true here. Moreover, the record is clear that this Court's appointment of separate lead counsel for the Demand-Futile and Demand-Refused actions clarified the legal theories that exposed the Defendants to potential liability and assisted in creating the necessary leverage to achieve the substantial benefits of the settlement for Johnson & Johnson. *See* ECF No. 192-10, at ¶¶ 18, 49-66.

Honorable Freda L. Wolfson
August 7, 2013
Page 2

Finally, we note that the *Citigroup* court awarded counsel \$70.8 million in attorneys' fees, representing a 2.8 multiplier—well-above the 1.86 multiplier requested by Plaintiffs' Counsel based on the Special Master's recommended lodestar. *See Citigroup* at 47-48.

We thank the Court for its continued attention to this matter.

Respectfully submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

/s/ James E. Cecchi

JAMES E. CECCHI

cc: All counsel (via ECF)